ANALYSIS OF ORIGINAL BILL

Author:	Nava	Analyst:	Angela Raygoza	Bill Number:	AB 50
Related Bills:	See Legislative History	Telephone:	845-7814	Introduced Date:	December 1, 2008
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Disaster Loss Deduction/Excess Loss Carryover/November 2008 Santa Barbara County Wildfires

SUMMARY

This bill would allow special tax treatment, called disaster loss treatment, for losses sustained as a result of the wildfires that occurred during November 2008 in Santa Barbara County.

This analysis will not address the bill's changes to the Property Tax Law, as they do not impact the department or state income tax revenue.

PURPOSE OF THE BILL

According to the language of the bill, the purpose of this bill is to provide immediate tax relief to individuals and businesses affected by the wildfires.

EFFECTIVE/OPERATIVE DATE

As an urgency measure, this bill would be effective and operative immediately upon enactment.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Under federal and state law, a casualty loss is defined as the damage, destruction, or loss of property resulting from an identifiable event that is sudden, unexpected, or unusual. A disaster loss occurs when business or personal property is completely or partially destroyed as a result of a fire, storm, flood, or other natural event in an area declared to be a disaster by the President of the United States.

Board Position:			Department Director	Date
_______ S	_______ NA	_______ NP		
_______ SA	_______ O	_______ NAR	Selvi Stanislaus	01/09/09
_______ N	_______ OUA	___X___ PENDING		

Existing federal and state laws allow an individual taxpayer with a non-business casualty/disaster loss that is not reimbursed, by insurance or otherwise, may deduct such losses to the extent that each loss exceeds $100 and aggregate net losses for the taxable year exceed 10% of adjusted gross income. Additionally, a taxpayer can elect to file an amended return to deduct a casualty loss in the taxable year prior to the loss year to receive a refund more quickly. However, this election only applies to casualty losses occurring in a Presidentially-declared disaster area. This election may be made for any Presidentially-declared disaster prior to passage of any state legislation allowing special carryover treatment because California conforms to federal disaster tax law treatment. The election is not available for a Governor-only declared disaster until enabling state legislation has been enacted.

State tax law[1] identifies specific events as disasters and excess disaster losses are allowed special carry forward treatment. That is, 100% of the excess disaster loss may be carried over for up to 15 taxable years. In addition, for disasters that were the subject of a Governor's proclamation but not the subject of a Presidential disaster declaration, enactment of state law identifying a specific event as a disaster for state tax law purposes authorizes the taxpayer to elect to deduct the disaster loss on the return for the prior taxable year.

PROGRAM BACKGROUND

On November 14, 2008, Governor Arnold Schwarzenegger proclaimed a state of emergency declaring the wildfires that occurred in Santa Barbara County to be a state disaster. On November 18, 2008, President George W. Bush proclaimed a federal disaster for the wildfires that occurred in Los Angeles, Orange, Riverside, and Santa Barbara Counties.

THIS BILL

As a Presidentially-declared disaster, this bill would allow taxpayers to deduct the disaster losses in the year the loss occurs or in the preceding year by filing an amended return.

This bill would also allow special carry forward treatment for up to fifteen taxable years for losses sustained as a result of the wildfires that occurred in Santa Barbara County during November 2008.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs or operations.

LEGISLATIVE HISTORY

AB 15 (Fuentes, 2009/2010) would allow taxpayers' disasters loss treatment for losses sustained as a result of the wildfires that occurred in Los Angeles County during November 2008. This bill is currently in the Assembly Revenue and Taxation Committee.

---

[1] AB 1452 (Stats. 2008, Ch. 763) disallows net operating loss deductions by suspending them for taxable years 2008 and 2009 for a taxpayer with net business income of $500,000 or more.

AB 79 ((Duvall, 2009/2010) would allow taxpayers disaster loss treatment for losses sustained as a result of the wildfires that occurred in the Orange County during November 2008. This bill is currently in the Assembly Revenue and Taxation Committee.

AB 62 (Nava, Stats. 2007, Ch. 224) allows taxpayers disaster loss treatment for losses sustained as a result of the wildfires that occurred in Ventura county in 2006, and in El Dorado, Santa Barbara, and Ventura counties during 2007.

SB 1064 (Hollingsworth, Stats. 2008, Ch. 386) allows taxpayers disaster loss treatment for losses sustained during calendar year 2007 for wildfires that occurred in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties and wind damage that occurred in Riverside County during October 2007. In addition, the losses sustained in Butte, Kern, Humboldt, Mariposa, Mendocino, Monterey, Plumas, Santa Barbara, Santa Clara, Santa Cruz, Shasta, and Trinity Counties during May, June, and July 2008, and the July 2007, wildfire and July 2008, rainstorms that occurred in Inyo County.

SB 38 (Florez, Stats. 2007, Ch. 222) allows taxpayers disaster loss treatment for losses that occurred as a result of the wildfire in Riverside County in October 2006.

SB 114 (Florez, Stats. 2007, Ch. 223) allows taxpayers disaster loss treatment for losses that occurred as a result of the freezing conditions that occurred in California in January 2007. The counties affected by that disaster are El Dorado, Fresno, Imperial, Kern, Kings, Madera, Merced, Monterey, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Santa Clara, Stanislaus, Tulare, Ventura, and Yuba.

FISCAL IMPACT

This bill would not significantly impact the department’s costs.

ECONOMIC IMPACT

<u>Revenue Estimate</u>

This bill would result in revenue losses as follows:

Estimated Revenue Impact of AB 50 Effective Immediately Upon Enactment Enactment Assumed After June 30, 2009			
2008-09	2009-10	2010-11	Cumulative Impact
-$13,000	+$6,000	+$4,000	-$3,000

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

The revenue impact of this bill is dependent on the extent affected taxpayers file amended 2007 income tax returns between April 16, 2009, and October 15, 2009, and report a disaster loss deduction as the result of wildfires that occurred during November 2008 in Santa Barbara County.

Total property damage attributable to the November 2008 Santa Barbara County wildfire is estimated at approximately $290 million (211 residences destroyed at an average home value of $1.368 million). It is estimated that 90 percent of residential losses are insured. Therefore, uninsured losses are approximately $29 million ($290 million X 10%). Assuming an average marginal tax rate of 9 percent, this would yield a disaster loss deduction of approximately $2.6 million ($29 million X 9%) for the 2008 taxable year.

Losses may be used in the year prior to the disaster, the year of the disaster, or carried forward to future years. This bill extends the period to report the disaster loss deduction on an amended 2007 return from April 15, 2009, to October 15, 2009. Approximately 1 percent of taxpayers would take advantage of this extension, for a revenue loss of $26,000 ($2.6 million X 1%). Of this loss, approximately one-half, or $13,000, would be applied to reduce tax liabilities ($26,000 X 50%) for the 2008-09 fiscal year.

Because these losses would be used on amended 2007 returns, they would not be available to offset income in later years. Future years would show offsetting revenue gains. Departmental data suggest that offsetting revenue gains would be approximately 50% in 2009-10, or $6,000 ($13,000 X 50%), and 30 percent in 2010-11, or $4,000 ($13,000 X 30%). The overall revenue impact for the three-year period is a loss of $3,000 (-$13,000 + $6,000 + $4,000).

LEGISLATIVE STAFF CONTACT

Legislative Analyst	Revenue Manager	Asst. Legislative Director
Angela Raygoza	Rebecca Schlussler	Patrice Gau-Johnson
(916) 845-7814	(916) 845-5986	(916) 845-5521
angela.raygoza@ftb.ca.gov	rebecca.schlussler@ftb.ca.gov	patrice.gau-johnson@ftb.ca.gov